IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 24926 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE RAVI R.TRIPATHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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BIRENDRA BALBHADRA SHAH AND ANOTHER
Versus
DISTRICT PANCHAYAT AND OTHERS

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Appearance :

MR MC BHATT, Sr.Advocate with MR VJ THAKOR for the Petitioners
MR PINAKIN RAVAL, with MS POOJA DAVE, for Respondent No.1

MR JASWANT K SHAH, ASSTT GOVERNMENT PLEADER for Respondent(s) : 2,
MA MUKESH PANDIT for Respondent No.3/1 to 3/3

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CORAM : HONOURABLE MR.JUSTICE RAVI R.TRIPATHI

Date : 12/10/2007

ORAL JUDGMENT

1. Heard learned senior advocate Mr. M.C. Bhatt with learned advocate Mr. Vikram J. Thakore appearing for the petitioners.

2. **RULE.** Mr. Pinakin Rawal, learned advocate, waives service of Rule for respondent No.1 District Panchnayat. Ms. Pooja Dave, learned advocate, is present on behalf of learned advocate Mr. Pinakin Rawal. Mr. Jaswant K. Shah, learned Assistant Government Pleader, waives service of Rule for respondent No.2. Mr. Mukesh Pandit, learned advocate, waives service of Rule for respondent Nos.3/1 to 3/3.

3. The learned advocate for the petitioners pointed out that the Secretary (Appeal) passed an order dated 25.07.2007 without affording an opportunity of hearing to the petitioners.

4. Only on that short ground, without going into the merits of the matter, order dated 25.07.2007 is hereby quashed and set aside and the matter is remanded to the Secretary (Appeal) for deciding the matter afresh after affording an opportunity of hearing to all concern. Rule is made absolute with no order as to costs.

It goes without saying that the Secretary (Appeal) will consider all the contentions raised by the parties in accordance with law. The parties shall maintain status quo with regard to the property in question till the matter is heard and decided by the Secretary (Appeal). The Secretary (Appeal) shall decide the matter as expeditiously as possible, preferably on or before 10.12.2007.

5. Learned senior advocate Mr. Bhatt places on record a communication dated 09.10.2007 from the Oil and Natural Gas Corporation Limited, whereby the ONGC Ltd. has conveyed their No Objection for grant of N.A. Permission to the petitioners. This fact should also be suitably taken into consideration by the Secretary (Appeal) at the time of deciding the appeal.

Direct service is permitted.

(RAVI R. TRIPATHI, J.)

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